Civil Society FfD Group Statement at the FACTI Panel’s virtual global townhall with civil society
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The current crisis has clearly exposed the impacts of the unbearable restrictions on the policy and fiscal space of developing countries, stifled by illicit financial flows and unsustainable debt burdens as well as limited by multiple layers of policy conditionalities that narrowed the capacity to focus on human rights and gender equality-based socio-economic transformation strategies.

The depth of gender inequalities, as the crisis generates, once again, a multi-layered, intensified burden on women, considering all social roles where women are over-represented and under-paid, from social reproduction to care, from daily wage earners to small business owners, from food workers to food distribution and as frontline workers in the health and social sectors. This exposes how unpaid domestic and care work remains the greatest obstacle for women to access their human rights and the primary origin of economic and productive inequalities stemming from the sexual division of labour.

The Beijing Declaration and Platform for Action (1995) commits all countries to eradicate all forms of discrimination, including that which is driven by IFFs, tax laws and policies. Illicit financial flows, including corporate tax abuse, obstruct redistribution and drain resources that are crucial to challenging inequalities, particularly gender inequality. The African Union Assembly Special Declaration on Illicit Financial Flows highlighted the need for domestic resource mobilisation and addressing illicit financial flows as central to the attainment of social and economic structural transformation of the continent. The task of the FACTI panel is to work towards these calls for structural transformation, not tinker in the margins.

We are therefore deeply disappointed that the first background paper of the FACTI panel does not build on the momentum of these previous high level initiatives and agreements – a call made by the Civil Society FfD Group at the launch in early March.

G77 and China have repeatedly called for the creation of a universal and transparent intergovernmental tax commission under the auspices of the UN noting their concern ‘that there is still no single globally inclusive intergovernmental forum for international tax cooperation’. In addition, Africa Group has called for an ‘international convention on tax’ to ‘serve as the backbone’ of such a UN intergovernmental tax commission to tackle all aspects of illicit financial flows. There should be no confusion about the clear calls for a universal intergovernmental negotiation process at the UN on setting international tax standards.

We are therefore deeply concerned to note the proposal instead in the FACTI panel background paper is to establish a ‘UN financial transparency convention’ rather than a ‘UN tax convention’. We had already expressed concerns at the FACTI panel launch in March of the risk of high level panels being captive to narrow or selective political interests and we reiterate our call to the FACTI panel to remain above narrow political agendas.

The FACTI panel background paper is also very weak on the key political issue: exposing the democratic deficits within supposedly global standard-setting processes related to illicit financial flows. Currently, international standards are being set by bodies where developing countries are only
allowed to participate on the condition that they sign on to existing standards and agreements that have been negotiated in non-inclusive forums.

Most developing countries were excluded from agenda setting, negotiations and decision-making of the OECD BEPS package that was adopted by OECD and G20 in 2015. Yet, developing countries are now invited to join the OECD Inclusive Framework only on the condition that they implement those OECD BEPS decisions that they were not part of negotiating. Similarly, the OECD-based Global Forum on Transparency and Exchange of Information for Tax Purposes is a forum that only implements information exchange standards, including on automatic exchange of information, designed and adopted by OECD and G20.

It is therefore hardly surprising that the 2019 IATF Financing for Sustainable Development Report (FSDR) highlights that the OECD Common Reporting Standard on automatic exchange of information has 108 members of which 33 are middle income countries and 1 LDC. Similarly, the OECD MCAA exchange of country by country reports has 74 members of which 17 are middle income countries and 2 LDCs. This is not a capacity building issue, but a reflection of standard setting processes that remain OECD-led and produces standards irrelevant for most developing country contexts.

Having been built on top of the tax practices within the imperial trading blocs of the 1920s, the international tax system has historically been against developing country interests. The direction of current reforms within OECD processes only reinforces this status quo of an international tax system built in the 1920s. The impacts of this broken international tax system are felt most acutely by the most marginalised sections of society, who face a greater risk of rights abuses along with the lack of adequate public spending on key areas that would improve equality, including gender equality. We therefore disagree with the assertion in the FACTI panel background note that “The above OECD-led reforms from the past ten years represent a major change in international tax cooperation” (page 7).

In this context, the rationale for FACTI panel’s prioritisation of the third cluster on ‘cooperation and settling disputes’ remains unclear. The terms dispute and non-cooperation are often related to mechanisms such as secret binding arbitration or highly political blacklisting processes that target developing countries who choose not to abide by rules set by the OECD and G20. These approaches are highly concerning and should not be promoted or legitimised. This cluster could have instead been more clearly focused on global governance gaps to ensure adequate analysis and contextualisation on the key issue of systematic exclusion of developing countries from standard setting processes.

On international tax, the key challenge is ensuring that standards and solutions are easy to administer to prevent disputes. The Committee of Experts on International Cooperation in Tax Matters (or UN tax committee), has recommended that from a developing countries’ point of view, the solution to the issue on taxing profits of digitalized businesses should be simple to administer as "Developing countries often neither have the capacity to administer complex solutions nor are they equipped to handle costly international dispute settlement processes" (para 22). Trying to fix dispute settlement before addressing the relevance of global standards for developing country contexts is putting the cart before the horse.

We reiterate once again that the central issue is not the need for counting beans but to overcome the obstinate blocking by some OECD member states on establishing a UN process to negotiate international tax standards. We hope the FACTI panel will focus more on giving impetus to this political process and thereby encourage member states to start moving in this direction. Thank you for your kind attention.